



# Memorandum

**TO:** PUBLIC SAFETY, FINANCE &  
STRATEGIC SUPPORT  
COMMITTEE

**FROM:** Larry Esquivel

**SUBJECT:** UNMANNED AERIAL SYSTEM

**DATE:** March 12, 2015

Approved

Date

3/12/15

## RECOMMENDATION

- (a) Accept staff's status report on community feedback regarding the Police Department's proposed use of an Unmanned Aerial System as well as proposed policies and procedures regarding its use.
- (b) Direct staff to return to the Public Safety, Finance and Strategic Support (PSFSS) Committee by no later than June 30, 2015 with an update on the Neighborhoods Commission's recommendations regarding the Department's use of the UAS and staff's analysis of those recommendations.

## BACKGROUND

In January 2014, the San José Police Department (Department) procured an Unmanned Aerial System (UAS), commonly referred to as a "drone". The UAS was acquired for use by the Department's Bomb Squad as a tool that would allow Bomb Technicians the ability to access otherwise inaccessible areas while maintaining a safe distance from a possible explosive device or other hazardous situation.

Following the Department's acquisition of the UAS, concerns began surfacing in the community about the Department's use of the UAS. As a result, the Department asked the San José Neighborhoods Commission to work with the Department to conduct extensive public outreach where the Department could directly receive public input on the Department's use of the UAS and on any Department proposed policies and procedures regarding the UAS. The Neighborhoods Commission subsequently worked with the Department to host a series of public meetings from November 2014 to March 2015.<sup>1</sup> During these meetings, community members voiced concerns regarding "mission creep" (the expansion of a project or mission beyond its original goals), the use of the UAS for surveillance, the

---

<sup>1</sup> The Department and over 200 members from the community discussed the use of the UAS over an extended period of time on the following dates and at the following locations: Neighborhoods Commission meeting, Wednesday, November 12, 2014 at City Hall; Outreach meeting, Saturday, December 6, 2014 at City Hall; Outreach meeting, Saturday, January 17, 2015 at West Valley Branch Library; Outreach meeting, Saturday, February 14, 2015 at Mayfair Community Center; and Neighborhoods Commission meeting, Wednesday, March 11, 2015 at City Hall.

storage of any imagery captured by the UAS and the UAS recently being flown over crowds and over private property.

In response to the concerns, the Department advised that the UAS had not yet been flown by the Department as the City first needed to ensure it was in compliance with Federal Aviation Administration (FAA) regulations. In addition, the Department advised that if the City met FAA regulations, the Department would use the UAS for the following limited purposes:

- Ensure officer safety in situations where potential explosive devices were present; and
- Protect human life in emergency situations involving a threat to human life, such as an active shooter or hostage/barricade

At the November Neighborhoods Commission meeting, commissioners asked the Department to create a preliminary set of proposed policies and protocols surrounding the use of the UAS. The Department presented its proposed policies and protocols at the meetings held in December 2014 and in January, February and March of 2015. Specifically, the Department proposed the following procedures and protocols be followed:

- All UAS flights would require approval from a command officer.
- All UAS flights would be logged and subject to audit and log data would include:
  - The specific reason for the use of the UAS
  - Location and duration of flight
  - Identity of the pilot
  - Identity of the authorizing command officer
- Flights would only be for legitimate public safety missions, training, or demonstration purposes.
- The UAS would not be used for surveillance.
- The UAS would be utilized solely to provide “real-time” information and would not be used to record or store images.
- The UAS would not be flown at night.
- The UAS would not have any of the following capabilities:
  - Weapons
  - Acoustical devices
  - Imagers that can see through walls
  - Biometric identification devices
  - Electronic “noses”

March 12, 2015

**Subject: Unmanned Aerial System**

Page 3

On March 11, 2015, the Department gave its final presentation to the Neighborhoods Commission. During its presentation, the Department clarified that the Bureau of Field Operations, specifically, the Bomb Unit, would be responsible for housing the UAS and managing its use. The Department also offered that during its operation of the UAS it would comply with all FAA regulations. Finally, the Department confirmed that it would be recommending that the City Council approve the Department's use of the UAS for a ***one year Pilot Program*** under the terms and conditions outlined above.

Following public comment and discussion by the Neighborhoods Commission, the Neighborhoods Commission voted to recommend to the City Council that it approve the Department's use of the UAS for a one year pilot program under conditions which the Commission voted to summarize in a report to the City Council under separate cover.

## **ANALYSIS**

Law enforcement "best practices" dictate that agencies utilize all reasonable means available to them, including technology, to safeguard officers and the public during critical incidents. The Department's Bomb Squad currently does not have the capability of accessing real-time intelligence on the condition of a perimeter or any potentially life threatening hazards during a Bomb Squad operation. For example, recently, the Bomb Squad responded to a suspicious package. Just prior to detonating the package in place, a homeless male was found sleeping in the bushes dangerously close by. The use of the UAS would help prevent similar close calls in the future.

In addition, the use of the UAS can provide situational awareness during other critical incidents where there is a danger to human life and provide a reasonable alternative to unnecessarily exposing officers to physical dangers. For example, on January 19, 2015, the Department's MERGE Unit responded to a report of an armed man held up in his apartment in South San Jose. The subject, who had already shot himself, was brandishing a handgun and pointing it towards officers on patrol. The MERGE Unit responded and attempted to get "eyes on" the male from the exterior of the apartment to assess his condition. Unfortunately, this action required that officers be exposed to an armed gunman without any protective cover. The gunman continued to fire the handgun inside the apartment during the incident and ultimately died by suicide during negotiations. The use of a UAS in this situation would have provided a safe alternative to exposing officers to an armed man who was firing a gun inside his apartment by providing officers on scene with the ability to view the suspect remotely.

Approval of the proposed utilization of a UAS by the Department will result in the Department's ability to minimize danger to officers and the public by allowing specially trained and designated officers to view dangerous situations from a safe distance.

In addition, with the Department's proposed procedures and protocols in place, the Department will be held to a clear standard of performance and accountability. Additionally, at the conclusion of an evaluation period, an official audit, consisting of a comprehensive internal evaluation as well as community outreach, can be conducted to maximize transparency and accountability. The audit coupled with anecdotal evidence presented by the Department will greatly assist in assessing the efficacy of the UAS.

March 12, 2015

**Subject: Unmanned Aerial System**

Page 4

### **NEXT STEPS**

Once the Neighborhoods Commission issues its report, the Department will review the Commission's recommendations to determine whether they are in line with those of the Department. The Department will then return to the PSFSS Committee with proposed next steps, including Council's approval of a one-year Pilot Program. If a Pilot Program is approved by the City Council, the Department will seek to obtain necessary approval from the FAA to operate the UAS. The FAA has not yet finalized its process for approving a public entity's use of a UAS and the Department anticipates that process to be finalized towards the end of 2016. As a result, the Department anticipates obtaining proper approvals from the FAA in 2016/2017 with a UAS Pilot Program beginning sometime in 2017.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Office.

/s/

LARRY ESQUIVEL

Chief of Police

For questions, please contact Lt. Jason Dwyer, Bomb Squad Commander, at (408) 219-6746.